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UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

Service and Regulatory Announcements No. 158

REGULATIONS

FOR

WAREHOUSEMEN STORING
BROOMCORN

REGULATIONS OF THE SECRETARY OF AGRICULTURE
UNDER THE UNITED STATES WAREHOUSE

ACT OF AUGUST 11, 1916

AS AMENDED

Issued August 1940

(Supersedes S. R. A. No. 84)



United States Department of Agriculture

AGRICULTURAL MARKETING SERVICE

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 158

(Supersedes S. R. A. No. 84)

REGULATIONS FOR WAREHOUSEMEN STORING BROOM-CORN UNDER THE UNITED STATES WAREHOUSE ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C.

By virtue of the authority vested in the Secretary of Agriculture by the United States Warehouse Act, approved August 11, 1916 (39 Stat. 490 ; 7 U. S. C. 268) as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of the following regulations (Part 105 of Title 7 of Code of Federal Regulations) to be known as the regulations for warehousemen storing broomcorn, and to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act. These regulations shall supersede all regulations issued under said act heretofore for broomcorn warehouses.

(Title 7, Ch. I, Pt. 105 of the Code of Federal Regulations)

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DEFINITIONS

105.1 Meaning of words.—Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

105.2 Terms defined.—For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *The act.*—The United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U. S. C. 241–273) as amended.

(b) *Person.*—An individual, corporation, partnership, or two or more persons having a joint or common interest.

(c) *Secretary.*—The Secretary of Agriculture of the United States.

(d) *Chief of the Service.*—The Chief of the Agricultural Marketing Service.

(e) *Designated representative.*—The Chief of the Agricultural Marketing Service of the United States Department of Agriculture.

(f) *Regulations.*—Rules and regulations made under the act by the Secretary.

(g) *Service.*—The Agricultural Marketing Service of the United States Department of Agriculture.

(h) *Warehouse.*—Any building, structure, or other protected inclosure licensed or to be licensed under the act, in which broomcorn is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which broomcorn is or may be stored.

(i) *License.*—A license issued under the act by the Secretary.

(j) *Warehouseman.*—Any person lawfully engaged in the business of storing broomcorn, who holds an effective warehouseman's license under the act, or who has applied for such a license.

(k) *Licensed warehouse.*—A warehouse for the conduct of which a license has been issued.

(l) *Licensed warehouseman's bond.*—A bond required to be given under the act by a licensed warehouseman.

(m) *Licensed inspector.*—A person licensed under the act by the Secretary to inspect, to sample, and to certificate the variety and condition of broomcorn, including its baling.

(n) *Licensed grader.*—A person licensed under the act by the Secretary to grade and to certificate the grade of broomcorn stored or to be stored in a licensed warehouse.

(o) *Licensed weigher.*—A person licensed under the act by the Secretary to weigh and certificate the weight of broomcorn stored or to be stored in a licensed warehouse.

(p) *Condition.*—Any state of broomcorn which is not covered by variety or grade and which has a material bearing on its value, including its keeping quality.

(q) *Grade.*—That combination of factors such as length, color, fiber, and other elements which will show the quality of the broomcorn.

(*r*) *Properly baled*.—A well-made bale bound by five strong wires securely fastened and at least two tie wires so fastened to the outer band wires as to hold them from slipping.

(*s*) *Bale*.—A bale of broomcorn.

(*t*) *Damaged broomcorn*.—Any portion of a bale other than the exterior which is unfit for use due to heating, mold, rot, or other causes.

(*u*) *Sticks*.—Stemmy broomcorn with little or no fiber.

(*v*) *Crooks*.—Broomcorn which became bent in a U or similar shape while growing.

(*w*) *Trash*.—Leaves, roots, or other worthless material incident to harvesting.

(*x*) *Receipt*.—A warehouse receipt.

(*y*) *State*.—A State, Territory, or District of the United States.

WAREHOUSE LICENSES

105.3 Application forms.—Applications for licenses under sections 4 and 9 of the act (46 Stat. 1463, 1464; 7 U. S. C. 244, 248) and for modifications or extensions of licenses under section 5 of the act (42 Stat. 1282; 7 U. S. C. 245) shall be made to the Secretary upon forms prescribed for the purpose and furnished by the Service, shall be in English, shall truly state the information therein contained, and shall be signed by the applicant. The applicant shall at any time furnish such additional information as the Secretary or the Chief of the Service shall find to be necessary to the consideration of his application by the Secretary.

105.4 Grounds for not issuing license.—A license for the conduct of a warehouse shall not be issued if it be found by the Secretary, or his designated representative, that the warehouse is not suitable for the proper storage of broomcorn, that the warehouseman is incompetent to conduct such warehouse in accordance with the act and these regulations, or that there is any other sufficient reason within the purposes of the act for not issuing such license.

105.5 Net assets required.—The warehouseman conducting a warehouse licensed or for which application for license has been made under the act, shall have and maintain above all exemptions and liabilities, net assets liable for the payment of any indebtedness arising from the conduct of the warehouse, to the extent of at least \$2 per bale of the maximum number of bales of broomcorn that the warehouse will accommodate when stored in the manner customary to the warehouse for which such assets are required, as determined by the Chief of the Service, except that the amount of such assets shall not be less than \$5,000 and need not be more than \$100,000. In case such warehouseman has applied for licenses to conduct two or more warehouses in the State, the assets applicable to all of which shall be subject to the liabilities of each, such warehouses shall be deemed to be one warehouse for the purposes of the assets required under this section. For the purposes of this section only, paid-in capital stock, as such, shall not be considered a liability. Any deficiency in the required net assets may be supplied by an increase in the amount of the warehouseman's bond in accordance with section 105.12 (*b*).

105.6 License shall be posted.—Immediately upon receipt of his license, or of any modification or extension thereof under the act, the warehouseman shall post the same, and thereafter, except as otherwise provided in these regulations, keep it posted until suspended or terminated, in a conspicuous place in the principal office where receipts issued by such warehouseman are delivered to depositors.

105.7 Suspension or revocation of warehouse licenses.—Pending investigation, the Secretary, or his designated representative, whenever he deems necessary, may suspend a warehouseman's license temporarily without hearing. Upon written request and a satisfactory statement of reasons therefor, submitted by a warehouseman, the Secretary, or his designated representative, may, without hearing, suspend or revoke the license issued to such warehouseman. The Secretary, or his designated representative, may, after opportunity for hearing when possible has been afforded in the manner prescribed in this section, revoke a license issued to a warehouseman when such warehouseman (*a*) is bankrupt or insolvent; (*b*) has parted, in whole or in part, with his control over the licensed warehouse; (*c*) is in process of dissolution or has been dissolved; (*d*) has ceased to conduct such licensed warehouse; or (*e*) has in any other manner become nonexistent or incompetent or incapacitated to conduct the business of the warehouse. Whenever any of the conditions mentioned in subdivisions (*a*) to (*e*)

shall come into existence, it shall be the duty of the warehouseman to notify immediately the Chief of the Service of the existing condition. Before a license is revoked for any violation of, or failure to comply with, any provision of the act or of these regulations, or upon the ground that unreasonable or exorbitant charges have been made for services rendered, the warehouseman involved shall be furnished by the Secretary, or by an official of the Department of Agriculture designated for the purpose, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with section 105.75.

105.8 Return of terminated, suspended, or revoked warehouse license.—In case a license issued to a warehouseman terminates or is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless it be in the meantime revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon, it shall be returned to the warehouseman to whom it was originally issued, and it shall be posted as prescribed in section 105.6; provided, that in the discretion of the Chief of the Service a new license may be issued without reference to the suspension.

105.9 Lost or destroyed warehouse license.—Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate thereof may be issued under the same number.

105.10 Unlicensed warehousemen must not represent themselves as licensed.—No warehouse or its warehouseman shall be designated as licensed under the act and no name or description conveying the impression that it or he is so licensed shall be used, either in a receipt or otherwise, unless such warehouseman holds an unsuspended or unrevoked license for the conduct of such warehouse.

WAREHOUSE BONDS

105.11 Time of filing.—Unless the warehouseman has previously filed with the Secretary the bond required by section 105.12 of this regulation, he shall file such bond within a time, if any specified by the Secretary, or his designated representative, said bond to cover all obligations arising thereunder during the period of the license.

105.12 Basis for amount of bond; additional amounts.—

(a) Exclusive of any amount which may be added in accordance with paragraphs (b) and (c) of this section, the amount of such bond shall be at the rate of \$2 per bale of the maximum number of bales that the warehouse will accommodate when stored in the manner customary to the warehouse for which such bond is required, as determined by the Chief of the Service, but not less than \$5,000 nor more than \$50,000. In case a warehouseman has applied for licenses to conduct two or more warehouses in the same State, the assets applicable to all of which shall be subject to the liabilities of each, and shall desire to give a single bond meeting the requirements of the act and these regulations for the said warehouses, such warehouses shall be deemed to be one warehouse for the purposes of the bond required under sections 105.11–105.15.

(b) In case of a deficiency in net assets under section 105.5 there shall be added to the amount of the bond fixed in accordance with paragraph (a) of this section an amount equal to such deficiency.

(c) In case the Secretary, or his designated representative, finds the existence of conditions warranting such action, there shall be added to the amount fixed in accordance with paragraphs (a) and (b) of this section, a further amount, fixed by him, to meet such conditions.

105.13 Amendment of license.—In case an application is made under section 105.3 for an amendment of a license and no bond previously filed by the warehouseman under this regulation covers obligations incurred during the period of such amendment, the warehouseman shall, when notice has been given by the Secretary, or his designated representative, that such amendment will be granted upon compliance by such warehouseman with the act, file with the Secretary, within a time, if any, fixed in such notice, a bond complying with the act, unless bond in sufficient amount has been filed since the filing of such application. In the discretion of the Secretary, a properly executed instrument in form approved by him, amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the warehouseman and

otherwise complying with the act and these regulations may be filed in lieu of a new bond.

105.14 New bond required each year.—Whenever a license has been issued for a period longer than 1 year, such license shall not be effective beyond 1 year from its effective date unless the warehouseman shall have filed a new bond in the required amount with, and such bond shall have been approved by, the Secretary, or his designated representative, prior to the date on which said license would have expired had it been issued for but 1 year, subject to the provisions of section 105.13.

105.15 Approval of bond.—No bond, amendment, or continuation thereof shall be accepted for the purposes of the act and these regulations until it has been approved by the Secretary, or his designated representative.

WAREHOUSE RECEIPTS

105.16 Contents of receipts.—(a) Every receipt, whether negotiable or non-negotiable, issued for broomcorn stored in a licensed warehouse shall, in addition to complying with the requirements of section 18 of the act (42 Stat. 1284; 7 U. S. C. 260) embody within its written or printed terms the following: (1) the name of the licensed warehouseman and the designation, if any, of the warehouse; (2) the license number of the warehouse; (3) a statement whether the warehouseman is incorporated or unincorporated, and, if incorporated, under what laws; (4) the tag number given to each bale of broomcorn in accordance with section 105.32; (5) a statement conspicuously placed, whether or not the broomcorn is insured, and, if insured, to what extent, by the warehouseman against loss by fire, lightning, and tornado; (6) a blank space designated for the purpose in which the condition shall be stated; (7) a blank space designated for the purpose in which variety shall be stated; (8) the crop year in which the broomcorn was grown; (9) the words "Nonnegotiable" or "Negotiable" according to the nature of the receipt, clearly and conspicuously printed or stamped thereon; and (10) in the event the relationship existing between the warehouseman and any depositor is not that of strictly disinterested custodianship, a statement setting forth the actual relationship.

(b) Every receipt, whether negotiable or nonnegotiable, issued for broomcorn stored in a licensed warehouse shall specify a period, not exceeding 1 year, for which the broomcorn is accepted for storage under the act and these regulations, but upon demand and the surrender of the old receipt by the lawful holder thereof at or before the expiration of the specified period, the warehouseman, upon such lawful terms and conditions as may be granted by him at such time to other depositors of broomcorn in the warehouse, shall issue a new receipt for a further specified period not exceeding 1 year, or, if he continues to act as a public warehouseman but not as a licensed warehouseman, issue a new nonlicensed receipt; provided, it is actually determined that there has been no deterioration in the quality of the broomcorn.

(c) Every receipt issued for broomcorn stored in a licensed warehouse shall, in addition to complying with the requirements of paragraphs (a) and (b) of this section, embody within its written or printed terms the following: (1) If the broomcorn covered by such receipt was inspected by a licensed inspector, graded by a licensed grader or weighed by a licensed weigher, a statement to that effect; (2) a form of indorsement which may be used by the depositor or the lawful holder of the receipt or the authorized agent of either for showing the ownership of, and liens, mortgages, or other encumbrances on, the broomcorn covered by the receipt.

(d) Whenever the grade or other class of the broomcorn is required to be, or is, stated in a receipt issued for broomcorn stored in a licensed warehouse, such grade or other class shall be stated in the receipt in accordance with sections 105.66–105.70.

(e) If a warehouseman issues a receipt omitting the statement of grade on request of the depositor, such receipt shall have clearly and conspicuously stamped or written on the face thereof the words "Not graded on request of depositor."

(f) If a warehouseman issues a receipt under the act omitting any information not required to be stated, for which a blank space is provided in the form of the receipt, a line shall be drawn through such space to show that such omission has been made by the warehouseman.

105.17 Copies of receipts.—If copies are made of receipts, all such copies, except those issued in lieu of the original in case of lost or destroyed receipts,

shall have clearly and conspicuously printed or stamped thereon the words "Copy—Not Negotiable." If copies are not made then skeleton copies bearing the same numbers as the corresponding original receipts shall be made, but such skeleton copies need not be marked "Copy—Not Negotiable."

105.18 Lost or destroyed receipts; bond for.—(a) In the case of a lost or destroyed receipt, if there be no statute of the United States or law of a State applicable thereto, a new receipt upon the same terms, subject to the same conditions, and bearing on its face the number and the date of the receipt in lieu of which it is issued and a plain and conspicuous statement that it is a duplicate issued in lieu of a lost or destroyed receipt, may be issued upon compliance with the conditions set forth in paragraph (b) of this section.

(b) Before issuing such duplicate receipt the warehouseman shall require the depositor or other person applying therefor to make and file with the warehouseman (1) an affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and, if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value, at the time the bond is given, of the broomcorn represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the warehouseman against any loss sustained by reason of the issuance of such duplicate receipt, and shall have as surety thereon (1) a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the State in which the warehouse is located, or (2) at least two individuals who are residents of such State and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, to the extent of double the amount of the bond.

105.19 Approval of form of receipt.—No receipt shall be issued by a licensed warehouseman except it be (1) in form prescribed by the Chief of the Service; (2) upon distinctive paper specified by him; (3) printed by a printer with whom the United States has a subsisting contract and bond for such printing; and (4) on paper manufactured by and procured from a manufacturer with whom the United States has a subsisting contract and bond for the manufacture of such paper.

105.20 Partial delivery of broomcorn.—If a warehouseman delivers part only of a lot of broomcorn for which he has issued a negotiable receipt under the act, he shall take up and cancel such receipt and issue a new receipt in accordance with these regulations for the undelivered portion of the broomcorn on which shall be stated the date of the receipt first issued by the warehouseman to cover the lot of which the undelivered portion forms a part.

105.21 Return of receipts before delivery of broomcorn.—Except as permitted by law or by these regulations, a warehouseman shall not deliver broomcorn for which he has issued a negotiable receipt until the receipt has been returned to him and canceled, and shall not deliver broomcorn for which he has issued a nonnegotiable receipt until such receipt has been returned to him or he has obtained from the person lawfully entitled to such delivery, or his authorized agent, a written order therefor.

105.22 Signatures of persons authorized to direct delivery to be filed with warehouseman.—Each person to whom a nonnegotiable receipt is issued shall furnish the warehouseman with a statement in writing indicating the person or persons having power to authorize delivery of broomcorn covered by such receipt, together with the bona fide signature of such person or persons. No licensed warehouseman shall honor an order for the release of broomcorn covered by a nonnegotiable receipt until he has first ascertained that the person issuing the order has authority to order such release and that the signature of the releasing party is genuine; provided that if the holder of such nonnegotiable receipt agrees in writing to hold blameless both the warehouseman and bondsman for any loss that might result from improper delivery through receipt of an unauthorized telegram, deliveries may be made on receipt of telegraphic orders to be followed immediately with usual confirmation order.

105.23 Omission of grade; no compulsion by warehouseman.—No warehouseman shall, directly or indirectly by any means whatsoever, compel or attempt to compel the depositor of any broomcorn in his warehouse to request the issuance of a receipt omitting the statement of grade.

DUTIES OF LICENSED WAREHOUSEMAN

105.24 Broomcorn ineligible for storage.—A warehouseman shall not receive for storage in his licensed warehouse any broomcorn that is wet, sappy, improperly baled, damaged, or that contains more than 10 percent by weight of seed, or that contains more than 5 percent by weight of trash, nor shall he accept any broomcorn containing crooks or sticks unless such crooks or sticks are separately baled and in such cases the receipts shall be plainly marked "Crooks" or "Sticks," as the case may be.

105.25 Insurance requirements.—(a) Each licensed warehouseman, when so requested in writing as to any broomcorn by the depositor thereof or lawful holder of the receipt covering such broomcorn, shall, to the extent to which in the exercise of due diligence he is able to procure such insurance, keep such broomcorn while in his custody as a licensed warehouseman insured in his own name or arrange for its insurance otherwise to the extent so requested, against loss or damage caused by fire, lightning, or tornado. When insurance is not carried in the warehouseman's name, the receipt shall show that the broomcorn is not insured by the warehouseman. Such insurance shall be covered by lawful policies issued by one or more insurance companies authorized to do such business, and subject to service of process in suits brought, in the State where the warehouse is located. If the warehouseman is unable to procure such insurance to the extent requested, he shall, orally or by telegraph or by telephone and at his own expense, immediately notify the person making the request of the fact. Nothing in this section shall be construed to prevent the warehouseman from adopting a rule that he will insure all broomcorn stored in his warehouse.

(b) Each warehouseman shall keep exposed conspicuously in the place prescribed by section 105.6, and at such other place as the Chief of the Service or his representative may from time to time designate, a notice, stating briefly the conditions under which the broomcorn will be insured against loss or damage by fire, lightning, or tornado.

(c) Each warehouseman shall promptly take such steps as may be necessary and proper to collect any moneys which may become due under contracts of insurance entered into by him for the purpose of meeting the requirements of these regulations, and shall, as soon as collected, promptly pay over to the persons concerned any portion of such moneys which they may be entitled to receive from him.

105.26 Premiums; inspections; reports.—Each warehouseman shall, in accordance with his contracts with insurance and bonding companies for the purpose of meeting the insurance and bonding requirements of these regulations, pay such premiums, permit such reasonable inspections and examinations, and make such reasonable reports as may be provided for in such contracts.

105.27 Care of broomcorn in storage.—Each warehouseman shall at all times exercise such care in regard to broomcorn in his custody as a reasonably careful owner would exercise under the same circumstances and conditions.

105.28 Care of nonlicensed broomcorn or other commodities.—If, at any time, a warehouseman shall handle or store broomcorn other than as a licensed warehouseman, or shall handle or store any other commodity, he shall so protect the same, and otherwise exercise care with respect to it, as not to endanger the broomcorn in his custody as a licensed warehouseman or impair his ability to meet his obligations and perform his duties under the act and these regulations. If the licensed warehouseman shall store commodities other than those for which he is licensed to store, a nonlicensed receipt shall be issued which shall contain in its terms a provision that said commodities are accepted for storage only until such time as the space which they may occupy may be needed for products for the storage of which the warehouseman is licensed. Under no circumstances shall any commodities for the storage of which the warehouseman is not licensed be stored if the storage of such commodities might adversely affect the commercial value of or the insurance on the broomcorn covered by licensed receipts.

105.29 Records to be kept in safe places.—Each warehouseman shall provide a metal fireproof safe, a fireproof vault, or a fireproof compartment in which he shall keep, when not in actual use, all records, books, and papers pertaining to the licensed warehouse, including his current receipt book, copies of receipts issued, and canceled receipts, except that with the written consent of the Chief of the Service or his representative, upon a showing by such warehouseman that it is not practicable to provide such fireproof safe, vault, or compartment, he may keep such records, books, and papers in some other place of safety,

approved by the Chief of the Service or his representative. All canceled receipts shall be arranged by the warehouseman in numerical order as soon as possible after their cancelation and shall be preserved in numerical order thereafter.

105.30 Warehouse charges.—A warehouseman shall not make any unreasonable or exorbitant charge for services rendered. Before a license to conduct a warehouse is granted under the act the warehouseman shall file with the Service a copy of his rules, if any, and a schedule of the charges to be made by him if licensed. Before making any change in such rules or schedule of charges he shall file with the Service a statement in writing showing the proposed change and the reasons therefor. Each licensed warehouseman shall keep exposed conspicuously in the place prescribed by section 105.6, and at such other place, accessible to the public, as the Chief of the Service or his representative may from time to time designate, a copy of his current rules and schedule of charges.

105.31 Business hours.—(a) Each licensed warehouse shall be kept open for the purpose of receiving broomcorn for storage and delivering broomcorn out of storage every business day for a period of not less than 6 hours between the hours of 8 a. m. and 6 p. m., except as provided in paragraph (b) of this section. The warehouseman shall keep conspicuously posted on the door of the public entrance to his office and to his warehouse a notice showing the hours during which the warehouse will be kept open, except when such warehouse is kept open continuously from 8 a. m. to 6 p. m.

(b) In case the warehouse is not to be kept open as required by paragraph (a) of this section, the notice posted as prescribed in that paragraph shall state the period during which the warehouse is to be closed and the name of an accessible person, with the address where he is to be found, who shall be authorized to deliver broomcorn stored in such warehouse, upon lawful demand and surrender of the receipt.

105.32 Numbered tags to be attached to bales.—(a) Each warehouseman shall, upon acceptance of any bale of broomcorn for storage, immediately attach, unless there be already attached thereto, a numbered tag of good quality which shall identify the bale. Such tags either shall be made of reasonably heavy waterproof paper or linen, with reinforced eyelet, and be attached to the bale with a flexible, rustproof wire, or shall be made of such other material and attached by such other means as shall be approved by the Chief of the Service or his representative. The tags shall be attached in numerical sequence or any series of sequences clearly distinguishable from each other. The warehouseman shall also attach to each lot at such place where it will be plainly visible, a tag of good quality which shall identify the lot. Such tag shall show the lot number, the identification mark on each bale, the number of the receipt issued to cover such broomcorn, the number of bales in the lot, the grade of the broomcorn, if determined, and the weight at the time the broomcorn entered storage.

(b) Each warehouseman shall so store each lot of broomcorn for which a receipt under the act has been issued that the lot tag thereon, required by paragraph (a) of this section, is visible and readily accessible, and shall arrange all bales in his licensed warehouse so as to permit an accurate count of the number of bales in each lot.

105.33 System of accounts.—Each warehouseman shall use for his licensed warehouse a system of accounts approved for the purpose by the Chief of the Service or his authorized representative, which will show for each lot of broomcorn the name of the depositor, the lot and individual bale tag numbers of each lot, mentioned in section 105.32, the weight of each bale or lot, the variety and condition of the broomcorn, the grade when the same is required to be, or is, ascertained, the location, the dates received for and delivered out of storage, and the receipts issued and canceled, a separate record for each depositor, and such accounts shall include a detailed record of all moneys received and disbursed and of all effective and canceled insurance policies.

105.34 Reports.—Each warehouseman shall, from time to time, when requested by the Chief of the Service, make such reports, as the Chief of the Service may require, on forms prescribed and furnished for the purpose by the Service, concerning the condition, contents, operation, and business of the warehouse.

105.35 Copies of reports to be kept.—Each warehouseman shall keep on file, as a part of the records of the licensed warehouse, for such period as may be prescribed by the Chief of the Service an exact copy of each such report submitted by such warehouseman under these regulations.

105.36 Canceled receipts; auditing.—Each warehouseman, when requested by the Service, shall forward his canceled receipts for auditing to Washington or to such field offices of the Service as may be designated from time to time. For the purposes of this section only such portion as the Service may designate of each canceled receipt, numbered to correspond with the actual receipt number, need be submitted.

105.37 Inspections and examinations of warehouses.—Each warehouseman shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to enter and inspect or examine any licensed warehouse for the conduct of which such warehouseman holds a license, the office thereof, the books, records, papers, and accounts relating thereto, and the contents thereof, and such warehouseman shall furnish such officer or agent the assistance necessary to enable him to make any inspection or examination under this section.

105.38 Inspection of weighing apparatus.—The weighing apparatus used for ascertaining the weight stated in a receipt or certificate, issued for broomcorn stored in a licensed warehouse, shall be subject to examination by any officer or agent of the Department of Agriculture designated by the Chief of the Service for such purpose. If the Service shall disapprove such weighing apparatus, it shall not thereafter, unless such disapproval be withdrawn, be used in ascertaining the weight of any broomcorn for the purposes of the act and these regulations.

105.39 Warehouse to be kept clean.—Each warehouseman shall keep his warehouse clean and free from trash, rubbish, and scattered broomcorn, and shall also keep his warehouse free from rats and other pests.

105.40 Warehouse to be kept light.—A warehouseman shall keep his warehouse sufficiently lighted so that the commercial value of the broomcorn may be easily determined upon examination.

105.41 Care in storage.—A warehouseman shall so store and handle broomcorn as not to injure or damage it in any manner.

105.42 Excess storage.—If at any time a warehouseman shall be offered for storage in his warehouse broomcorn in excess of the licensed capacity as shown on his license, he shall not accept such broomcorn until he has first secured authority through an amended license, and after such authority has been granted, the warehouseman shall continue to so arrange the broomcorn as not to obstruct free access thereto and the proper use of sprinklers or other fire-protection equipment provided for such warehouse.

105.43 Removal of broomcorn from storage.—Except as may be permitted by law or these regulations, a warehouseman shall not remove any broomcorn, for storage, from the licensed warehouse or a part thereof designated in the receipt for such broomcorn unless such receipt is first surrendered and canceled. Under no other circumstances, unless it becomes absolutely necessary to protect the interests of holders of receipts, shall broomcorn be removed from the licensed warehouse, before the surrender of the receipts, and immediately upon any such removal the warehouseman shall notify the Chief of the Service of such removal and the necessity therefor.

105.44 Signatures of persons to sign receipts to be filed with Department.—Each warehouseman shall file with the Department the name and genuine signature of each person authorized to sign warehouse receipts for the licensed warehouseman, and shall promptly notify the Department of any changes as to persons authorized to sign, and shall file signatures of such persons.

105.45 Fire loss to be reported by telegraph.—If at any time a fire shall occur at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately by wire to the Chief of the Service the occurrence of such fire and the extent of damage.

105.46 Copies of inspection, grade, or weight certificates to be filed.—When an inspection, grade, or weight certificate is issued by a licensed inspector, grader, or weigher, a copy of such certificate shall be filed with the warehouseman in whose warehouse the broomcorn covered by such certificate is stored, and such certificate shall become a part of the records of the licensed warehouseman.

FEEES

105.47 Warehouse license fees.—There shall be charged, assessed, and collected a fee of \$10 for each warehouseman's license or any amendment thereto, and a fee of \$3 for each license issued to a grader, weigher, or an inspector.

105.48 Warehouse inspection fees.—There shall be charged, assessed, and collected for each original examination or inspection of a warehouse under the act, when such examination or inspection is made upon application of a warehouseman, a fee at the rate of \$5 for each 1,000 bales of the storage capacity, or fraction thereof, determined in accordance with section 105.12 (a), but in no case less than \$10 nor more than \$200, and, for each reexamination or reinspection applied for by such warehouseman, a fee, based on the extent of the reexamination or reinspection, proportioned to but not greater than that prescribed for the original examination or inspection.

105.49 Advance deposit.—Before any warehouseman's license or amendment thereto, or any grader's, weigher's, or inspector's license, is granted, or an original examination or inspection, or reexamination or reinspection, applied for by a warehouseman, is made, pursuant to these regulations, the warehouseman, and/or grader, weigher, or inspector, shall deposit with the Service the amount of the fee prescribed therefor. Such deposit shall be made in the form of a check, certified if required by the Service, draft, or post-office or express money order, payable to the order of "Treasurer of the United States."

105.50 Return of excess deposit.—The Treasurer of the United States will hold in a special deposit account each advance deposit made under section 105.49 until the fee, if any, is assessed and he is furnished by the Service with a statement showing the amount thereof and against whom assessed. Any part of such advance deposit which is not required for the payment of any fee assessed shall be returned to the party depositing the same.

LICENSED INSPECTORS, GRADERS, AND WEIGHERS

105.51 Application forms.—(a) Application for licenses to inspect, grade, or weigh broomcorn under the act shall be made to the Chief of the Service on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, shall be verified by him under oath or affirmation administered by a duly authorized officer, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his twenty-first birthday; (2) the name and location of a warehouse or warehouses licensed, or for which application for license has been made, under the act in which broomcorn sought to be inspected, graded, and weighed under such license is or may be stored; (3) a statement from the warehouseman conducting such warehouse showing whether the applicant is competent and is acceptable to such warehouseman for the purpose; (4) satisfactory evidence that he has had at least 1 year's experience in the kind of service for which license is sought or the equivalent of such experience and that he is competent to perform such services, except in the case of applicants for weighers' licenses 1 month's experience will be sufficient; (5) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as the same may relate to him; and (6) such other information as the Chief of the Service may deem necessary, provided, that when application for license to inspect or grade broomcorn is filed by a person who does not intend to inspect or grade broomcorn for any particular licensed warehouseman but who does intend to inspect or grade broomcorn stored or to be stored in a licensed warehouse and to issue inspection or grade certificates therefor, as provided by the act and these regulations, independent of the warehouse receipts issued to cover such broomcorn, it shall not be necessary to furnish such statement as is required by subdivision (3) of this paragraph.

(c) The applicant shall at any time furnish such additional information as may be deemed necessary to a proper consideration of his application.

(d) A single application may be made by any person for a license to inspect, grade, and weigh, upon complying with the requirements of this section.

105.52 Examination of applicant.—Each applicant for license as an inspector, grader, or weigher, and each licensed inspector, licensed grader, or licensed weigher, whenever requested by an authorized agent of the Department of Agriculture designated by the Chief of the Service for the purpose, shall submit to an examination or test to show his ability to inspect, grade, or weigh broomcorn, as the case may be, and each such applicant or licensee shall furnish the Service any information which it may request, at any time, in regard to his inspection, grading, or weighing of broomcorn.

105.53 Posting of license.—Each licensed inspector and each licensed grader shall keep his license conspicuously posted in the office where all or most of

the inspecting and grading is done, and each licensed weigher shall keep his license conspicuously posted in the warehouse office, or in such place as may be designated by the Service.

105.54 Duties of licensees.—Each licensed inspector, licensed grader, or licensed weigher, according to the nature of his license, when requested, shall, without discrimination, as soon as practicable, and upon reasonable terms, sample, inspect, grade, or weigh, and certificate the condition, grade, or weight of broomcorn stored or to be stored in a warehouse for which he holds a license, if such broomcorn be offered to him under such conditions as permit proper sampling, inspection, grading, or weighing. Each such licensee shall give preference to persons who request his services as such over persons who request his services in any other capacity. No samples shall be drawn and no inspection, grade, or weight certificate shall be issued under the act for broomcorn not stored or to be stored in a licensed warehouse.

105.55 Inspection certificate; form.—Each inspection certificate issued under the act by a licensed inspector shall be issued on the day the inspection was made, shall be in a form approved for the purpose by the Chief of the Service, and shall embody within its written or printed terms (1) the caption “United States Warehouse Act, Broomcorn Inspection Certificate”; (2) whether it is an original, a duplicate, or other copy; (3) the name and location of the the licensed warehouse in which the broomcorn is or is to be stored; (4) the date of the certificate; (5) the location of the broomcorn at the time of inspection; (6) the identification number or mark on each bale of broomcorn, given in accordance with section 105.32 (a); (7) the condition of the broomcorn for storage at the time of inspection; (8) that the certificate is issued by a licensed inspector, under the United States Warehouse Act and regulations thereunder; (9) a blank space designated for the purpose in which may be stated any general remarks on the condition of the broomcorn; (10) the signature of such licensed inspector. In addition, the inspection certificate may include any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

105.56 Grade certificate; form.—Each grade certificate issued under the act by a licensed grader shall be issued on the day the grading was performed, shall be in a form approved for the purpose by the Chief of the Service, and shall embody within its written or printed terms (1) the caption “United States Warehouse Act, Broomcorn Grade Certificate”; (2) whether it is an original, a duplicate, or other copy; (3) the name and location of the licensed warehouse in which the broomcorn is or is to be stored; (4) the date of the certificate; (5) the location of the broomcorn at the time of grading; (6) the identification number or mark of each bale of broomcorn, given in accordance with section 105.32 (a); (7) the grade or other class of each bale of broomcorn covered by the certificate, in accordance with sections 105.66–105.70, as far as applicable, and the standard or description in accordance with which the grade is made; (8) the approximate amount of broomcorn covered by the certificate; (9) that the certificate is issued by a licensed grader under the United States Warehouse Act and regulations thereunder; and (10) the signature of the licensed grader. In addition, the grade certificate may include any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

105.57 Weight certificate; form.—Each weight certificate issued under the act by a licensed weigher shall be issued on the day the weighing was performed, shall be in a form approved for the purpose by the Chief of the Service, and shall embody within its written or printed terms (1) the caption “United States Warehouse Act, Broomcorn Weight Certificate”; (2) whether it is an original, a duplicate, or other copy; (3) the name and location of the licensed warehouse in which the broomcorn is or is to be stored; (4) the date of the certificate; (5) the location of the broomcorn at the time of weighing; (6) the identification number or mark of each bale of broomcorn, given in accordance with section 105.32 (a); (7) the weight of the broomcorn; (8) that the certificate is issued by a licensed weigher, under the United States Warehouse Act and the regulations thereunder; and (9) the signature of such licensed weigher. In addition, the weight certificate may include any other matter not inconsistent with the act or these regulations, provided the approval of the Service is first secured.

105.58 Combined inspection, grade, and weight certificate.—The condition, grade, and weight of any broomcorn ascertained by a licensed inspector, licensed grader, and a licensed weigher may be stated on a certificate meeting the com-

bined requirements of sections 105.55–105.57, if the form of such certificate shall have been approved for the purpose by the Chief of the Service.

105.59 Copies of certificates to be kept.—Each licensed inspector, each licensed grader, and each licensed weigher shall keep for a period of 1 year in a place accessible to persons financially interested a copy of each certificate issued by him under these regulations and shall file a copy of each such certificate with the warehouse in which the broomcorn covered by the certificate is stored.

105.60 Licensees to permit and assist in examination.—Each licensed inspector, each licensed grader, and each licensed weigher shall permit any officer or agent of the Department of Agriculture, authorized by the Secretary for the purpose, to inspect or examine at any time his books, papers, records, and accounts relating to the performance of his duties under the act and these regulations, and shall, with the consent of the licensed warehouseman concerned, assist any such officer or agent in the inspection or examination of records mentioned in section 105.33 as far as any such inspection or examination relates to the performance of the duties of such licensed inspector, such licensed grader, or such licensed weigher under the act and these regulations.

105.61 Reports.—Each licensed inspector, each licensed grader, and each licensed weigher shall from time to time, when requested by the Chief of the Service, make reports, on forms furnished for the purpose by the Service, bearing upon his activities as such licensed inspector, licensed grader, or licensed weigher.

105.62 Licenses; suspension or revocation.—Pending investigation the Secretary, or his designated representative, may, whenever he deems necessary, suspend the license of an inspector, grader, or weigher temporarily without hearing. Upon a written request and a satisfactory statement of reasons therefor, submitted by the inspector, grader, or weigher, or when the inspector, grader, or weigher has ceased to perform such services at the warehouse, the Secretary, or his designated representative, may, without hearing suspend or revoke the license issued to such licensee. The Secretary, or his designated representative, may, after opportunity for hearing, when possible, has been afforded in the manner prescribed in this section, suspend or revoke a license issued to a licensed inspector, licensed grader, or licensed weigher when such licensee has in any manner become incompetent or incapacitated to perform the duties of a licensed inspector, grader, or weigher. As soon as it shall come to the attention of a licensed warehouseman that any of the conditions mentioned in this section exist, it shall be the duty of such warehouseman to notify in writing the Chief of the Service. Before the license of any inspector, grader, or weigher is suspended or revoked pursuant to section 12 of the act (46 Stat. 1464; 7 U. S. C. 253), such licensee shall be furnished by the Secretary, or by his designated representative, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be afforded in accordance with section 105.75.

105.63 Return of suspended or revoked licenses. Termination of license.—(a) In case a license issued to an inspector, grader, or weigher is suspended or revoked by the Secretary, or his designated representative, such license shall be returned to the Secretary. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of the beginning and termination of the suspension shall be indorsed thereon and it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in section 105.53.

(b) Any license issued to an inspector, grader, or weigher, shall automatically be suspended or terminated as to any licensed warehouse whenever the license of such warehouse shall expire or be suspended or revoked. Thereupon the license of such inspector, grader, or weigher shall be returned to the Secretary. In case such license shall apply to other warehouses the Secretary, or his designated representative, shall issue to him a new license, omitting the names of the warehouses covering which licenses have been so suspended or revoked. Such new license shall be posted as prescribed in section 105.53.

105.64 Lost or destroyed licenses.—Upon satisfactory proof of the loss or destruction of a license issued to an inspector, grader, or weigher, a duplicate thereof may be issued under the same number.

105.65 Unlicensed inspector or weigher; misrepresentation.—No person shall in any way represent himself to be an inspector, grader, or weigher licensed under the act unless he holds an unsuspended or unrevoked license issued under the act to perform such duties.

BROOMCORN CLASSIFICATION

105.66 Variety, grade, and condition; statement of.—Whenever the variety, grade, or condition of broomcorn is required to be or is stated for the purposes of the act and these regulations, it shall be stated in accordance with sections 105.66–105.70.

105.67 Standards to be used.—Until such time as official broomcorn standards of the United States are in effect, the variety, grade, and condition of broomcorn shall be stated as far as applicable, (1) in accordance with tentative standards of the United States, if any; (2) in accordance with the State standards, if any, established in the State in which the warehouse is located; (3) in the absence of any State standards, in accordance with the standards, if any, adopted by any broomcorn organization or by the broom or broomcorn trade generally in the locality in which the warehouse is located, subject to the disapproval of the Chief of the Service; or (4) in the absence of any of the aforesaid standards, in accordance with any standards approved for the purpose by the Chief of the Service.

105.68 Grade and condition to be based on whole bale.—Whenever the variety, grade, or condition of broomcorn is stated for the purposes of the act and these regulations, the terms used shall be correctly applied and shall be so selected as not to convey a false impression of the broomcorn. In determining the variety, grade, or condition of a bale of broomcorn, the bale as a whole shall be considered rather than parts of it which do not materially affect the value of the entire bale.

105.69 Statement of grade.—Whenever the grade of broomcorn is stated for the purposes of the act and these regulations, it shall be based upon a careful and thorough examination of the bale of broomcorn or a representative sample thereof. In case the broomcorn in one part of a bale or sample is inferior to that in other parts of the bale or sample, the grade assigned to the broomcorn shall be an average considering the proportion that each part bears to the whole, and in case of a question as to which of two or more grades should be assigned to the broomcorn, the lowest grade in question shall be assigned.

105.70 Statement of condition.—Whenever the condition of broomcorn is stated for the purposes of the act and these regulations, it shall be based upon a careful and thorough examination of the bale or broomcorn.

ARBITRATIONS

105.71 Broomcorn arbitrations; committee; proceedings.—(a) In case a question arises as to whether the variety, grade, or condition of the broomcorn was correctly stated in a receipt, inspection certificate, grade certificate, or weight certificate issued under the act and these regulations, or as to whether a sample was properly drawn by a licensed inspector in accordance with these regulations, the licensed warehouseman concerned or any person financially interested in the broomcorn involved may, after reasonable notice to the other interested party, submit the question to an arbitration committee for determination in accordance with this section.

(b) Such arbitration committee shall be composed of three or more disinterested persons who are competent to pass upon the questions involved. If there be a local trade organization such as a board of trade, chamber of commerce, exchange, or inspection department which provides such a committee under a rule or practice acceptable to the Chief of the Service for the purpose, such committee may determine the question. In the absence of such a committee, or if for any good reason not inconsistent with the act and these regulations such committee is not acceptable to either of the parties interested, the complainant and the other party shall each name a member and the two members so named shall select a third member, who shall constitute the arbitration committee. Each member of any such committee shall at all times be subject for good cause to the disapproval of the Chief of the Service, and in case any member is so disapproved he shall not thereafter act on an arbitration committee under this section unless such disapproval be withdrawn.

(c) It shall be the duty of such parties to acquaint the arbitration committee with the exact nature of the question to be determined and all the necessary facts and to permit the committee to examine the receipt, certificate, sample or broomcorn involved or any papers or records needed for the determination of the question. The committee shall make a written finding setting forth the question involved, the necessary facts, and its determination. Such findings, or a true

copy thereof, shall be filed as a part of the records of the licensed warehouseman involved. It may dismiss the matter without determination upon the request of the complainant, or for noncompliance by the complainant with the law or these regulations, or because it is without sufficient evidence to determine the question, in which case the decision shall be deemed to be against the complainant. Except as otherwise provided by law, its decisions shall be final for the purposes of the act and these regulations, unless the Chief of the Service shall direct a review of the question. Any necessary and reasonable expense of such arbitration shall be borne by the losing party, unless the committee shall decide that such expense shall be prorated between the parties.

(d) If the decision of the arbitration committee be that the variety, grade, or condition was not correctly stated, the receipt or certificate involved shall be returned to and canceled by the licensee who issued it and he shall substitute therefor one conforming to the decision of the committee. If the decision of the committee be that a sample was not properly drawn in accordance with these regulations, it shall cease to be a sample for the purposes of these regulations, and the licensed inspector, at the request of any of the parties to the arbitration, shall draw and substitute a new sample, complying with these regulations with respect to such sample.

MISCELLANEOUS

105.72 Bonds required.—Every person applying for a license, or licensed under section 9 of the act (46 Stat. 1464; 7 U. S. C. 248) shall be subject to all portions of these regulations, except section 105.5, so far as they may relate to warehousemen. In case there is a law of any State providing for a system of warehouses owned, operated, or leased by such State, a person applying for a license under section 9 of the act, to accept the custody of broomcorn and to store the same in any of said warehouses, may, in lieu of the bond or bonds, complying with sections 105.11 and 105.12, file with the Secretary a single bond meeting the requirements of the act and regulations, in such form and in such amount not less than \$5,000 as he shall prescribe, to insure the performance by such person, with respect to the acceptance of the custody of broomcorn and its storage in the warehouses in such system for which licenses are or may be issued, of his obligations arising during the periods of such licenses, and in addition, if desired by the applicant, during the periods of any modifications or extensions thereof. In fixing the amount of such bond consideration shall be given, among other appropriate factors, to the character of the warehouses involved, their actual or contemplated capacity, the bonding requirements of the State, and its liability with respect to such warehouses. If the Secretary shall find the existence of conditions warranting such action, there shall be added to the amount of the bond so fixed a further amount, fixed by him, to meet such conditions.

105.73 Publications.—Publications under the act and the regulations shall be made in service and regulatory announcements of the Agricultural Marketing Service and such other media as the Chief of the Service may from time to time designate for the purpose.

105.74 Information of violations.—Every person licensed under the act shall immediately furnish the Service any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

105.75 Procedure in hearings.—For the purpose of a hearing under the act or these regulations, except section 105.71, the licensee involved shall be allowed a reasonable time, fixed by the Secretary or by an official of the Department of Agriculture designated by him for the purpose, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before, and at a time and place fixed by, the Secretary or an official of the Department of Agriculture designated by him for the purpose. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held, when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a time and place and before a person designated for the purpose by the Secretary or an official of the Department of Agriculture authorized by the Secretary. Every written entry in the records of the Department of Agriculture made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts

stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department of Agriculture. The records and, when there has been an oral hearing other than by the Secretary, the recommendation of the official holding such oral hearing shall be transmitted to the Secretary for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

105.76 One document and one license to cover several products.—A license may be issued for the storage of two or more agricultural products in a single warehouse or in one or more compartments in the same warehouse. Where such a license is desired, a single application, inspection, bond, record, report or other paper, document, or proceeding relating to such warehouse, shall be sufficient unless otherwise directed by the Chief of the Service.

105.77 Amount of assets and bond needed for combination warehouses.—Where such license is desired, the amount of the bond, net assets, and inspection and license fees shall be determined by the Chief of the Service in accordance with the regulations applicable to the particular agricultural product which would require the largest bond and the greatest amount of net assets and of fees applicable to the particular compartment or compartments to be licensed.

105.78 Amendments.—Any amendment to, or revision of, these regulations, unless otherwise stated therein, shall apply in the same manner to persons holding licenses at the time it becomes effective as it applies to persons thereafter licensed under the act.

Done at Washington, D. C., this 28th day of March 1940.
Witness my hand and the seal of the Department of Agriculture.



H. Wallace
Secretary of Agriculture

UNITED STATES WAREHOUSE ACT

[39 United States Statutes at Large, page 486, as amended July 25, 1919, February 23, 1923, and March 2, 1931]

That this Act shall be known by the short title of "United States warehouse Act."

SEC. 2. That the term "warehouse" as used in this Act shall be deemed to mean every building, structure, or other protected inclosure in which any agricultural product is or may be stored for interstate or foreign commerce, or, if located within any place under the exclusive jurisdiction of the United States, in which any agricultural product is or may be stored. As used in this Act, "person" includes a corporation or partnership or two or more persons having a joint or common interest; "warehouseman" means a person lawfully engaged in the business of storing agricultural products; and "receipt" means a warehouse receipt.

SEC. 3. That the Secretary of Agriculture is authorized to investigate the storage, warehousing, classifying according to grade and otherwise, weighing, and certification of agricultural products; upon application to him by any person applying for license to conduct a warehouse under this Act, to inspect such warehouse or cause it to be inspected; at any time, with or without application to him, to inspect or cause to be inspected all warehouses licensed under this Act; to determine whether warehouses for which licenses are applied for or have been issued under this Act are suitable for the proper storage of any agricultural product or products; to classify warehouses licensed or applying for a license in accordance with their ownership, location, surroundings, capacity, conditions, and other qualities, and as to the kinds of licenses issued or that may be issued for them pursuant to this Act; and to prescribe, within the limitations of this Act,

the duties of the warehousemen conducting warehouses licensed under this Act with respect to their care of and responsibility for agricultural products stored therein.

SEC. 4. That the Secretary of Agriculture, or his designated representative, is authorized, upon application to him, to issue to any warehouseman a license for the conduct of a warehouse or warehouses in accordance with this Act and such rules and regulations as may be made hereunder: *Provided*, That each such warehouse be found suitable for the proper storage of the particular agricultural product or products for which a license is applied for, and that such warehouseman agree, as a condition to the granting of the license, to comply with and abide by all the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 5. That each license issued under Sections 4 and 9 of this Act shall terminate as therein provided, or in accordance with the terms of this Act and the regulations thereunder, and may from time to time be modified or extended by a written instrument.

SEC. 6. That each warehouseman applying for a license to conduct a warehouse in accordance with this Act shall, as a condition to the granting thereof, execute and file with the Secretary of Agriculture a good and sufficient bond to the United States to secure the faithful performance of his obligations as a warehouseman under the terms of this Act and the rules and regulations prescribed hereunder, and of such additional obligations as a warehouseman as may be assumed by him under contracts with the respective depositors of agricultural products in such warehouse. Said bond shall be in such form and amount, shall have such surety or sureties, subject to service of process in suits on the bond within the State, District, or Territory in which the warehouse is located, and shall contain such terms and conditions as the Secretary of Agriculture may prescribe to carry out the purposes of this Act, and may, in the discretion of the Secretary of Agriculture, include the requirements of fire and/or other insurance. Whenever the Secretary of Agriculture, or his designated representative, shall determine that a previously approved bond is, or for any cause has become, insufficient, he may require an additional bond or bonds to be given by the warehouseman concerned, conforming with the requirements of this section, and unless the same be given within the time fixed by a written demand therefor the license of such warehouseman may be suspended or revoked.

SEC. 7. That any person injured by the breach of any obligation to secure which a bond is given, under the provisions of Sections 6 or 9, shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

SEC. 8. That upon the filing with and approval by the Secretary of Agriculture, or his designated representative, of a bond, in compliance with this Act, for the conduct of a warehouse, such warehouse may be designated as bonded hereunder; but no warehouse shall be designated as bonded under this Act, and no name or description conveying the impression that it is so bonded shall be used until a bond, such as provided for in section 6, has been filed with and approved by the Secretary of Agriculture, or his designated representative, nor unless the license issued under this Act for the conduct of such warehouse remains unsuspended and unrevoked.

SEC. 9. That the Secretary of Agriculture, or his designated representative, may, under such rules and regulations as he shall prescribe, issue a license to any person not a warehouseman to accept the custody of agricultural products, and to store the same in a warehouse or warehouses owned, operated, or leased by any State, upon condition that such person agree to comply with and abide by the terms of this Act and the rules and regulations prescribed hereunder. Each person so licensed shall issue receipts for the agricultural products placed in his custody, and shall give bond, in accordance with the provisions of this Act, and the rules and regulations hereunder affecting warehousemen licensed under this Act, and shall otherwise be subject to this Act, and such rules and regulations, to the same extent as is provided for warehousemen licensed hereunder.

SEC. 10. That the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee for every examination or inspection of a warehouse under this Act when such examination or inspection is made upon application of a warehouseman, and for each license issued to a warehouseman or to any person to classify, inspect, grade, sample, and/or weigh agricultural products stored or to be stored under the

provisions of this Act, the Secretary of Agriculture, or his designated representative, may charge, assess, and cause to be collected a reasonable fee. All such fees shall be deposited and covered into the Treasury as miscellaneous receipts.

SEC. 11. That the Secretary of Agriculture, or his designated representative, may upon presentation of satisfactory proof of competency, issue to any person a license to inspect, sample, or classify any agricultural product or products, stored or to be stored in a warehouse licensed under this Act, according to condition, grade, or otherwise and to certificate the condition, grade, or other class thereof, or to weigh the same and certificate the weight thereof, or both to inspect, sample, or classify and weigh the same and to certificate the condition, grade, or other class and the weight thereof, upon condition that such person agree to comply with and abide by the terms of this Act and of the rules and regulations prescribed hereunder so far as the same relate to him.

SEC. 12. That any license issued to any person to inspect, sample, or classify, or to weigh any agricultural product or products under this Act may be suspended or revoked by the Secretary of Agriculture, or his designated representative, whenever he is satisfied, after opportunity afforded to the licensee concerned for a hearing, that such licensee has failed to inspect, sample, or classify, or to weigh any agricultural product or products correctly, or has violated any of the provisions of this Act or of the rules and regulations prescribed hereunder, so far as the same may relate to him, or that he has used his license or allowed it to be used for any improper purpose whatever. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 13. That every warehouseman conducting a warehouse licensed under this Act shall receive for storage therein, so far as its capacity permits, any agricultural product of the kind customarily stored therein by him which may be tendered to him in a suitable condition for warehousing, in the usual manner in the ordinary and usual course of business, without making any discrimination between persons desiring to avail themselves of warehouse facilities.

SEC. 14. That any person who deposits agricultural products for storage in a warehouse licensed under this Act shall be deemed to have deposited the same subject to the terms of this Act and the rules and regulations prescribed hereunder.

SEC. 15. That any fungible agricultural product stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act shall be inspected and graded by a person duly licensed to grade the same under this Act.

SEC. 16. That every warehouseman conducting a warehouse licensed under this Act shall keep the agricultural products therein of one depositor so far separate from agricultural products of other depositors, and from other agricultural products of the same depositor for which a separate receipt has been issued, as to permit at all times the identification and redelivery of the agricultural products deposited; but if authorized by agreement or by custom, a warehouseman may mingle fungible agricultural products with other agricultural products of the same kind and grade, and shall be severally liable to each depositor for the care and redelivery of his share of such mass, to the same extent and under the same circumstances as if the agricultural products had been kept separate, but he shall at no time while they are in his custody mix fungible agricultural products of different grades.

SEC. 17. That for all agricultural products stored for interstate or foreign commerce, or in any place under the exclusive jurisdiction of the United States, in a warehouse licensed under this Act original receipts shall be issued by the warehouseman conducting the same, but no receipts shall be issued except for agricultural products actually stored in the warehouse at the time of the issuance thereof.

SEC. 18. That every receipt issued for agricultural products stored in a warehouse licensed under this Act shall embody within its written or printed terms (a) the location of the warehouse in which the agricultural products are stored; (b) the date of issue of the receipt; (c) the consecutive number of the receipt; (d) a statement whether the agricultural products received will be delivered to the bearer, to a specified person, or to a specified person or his order; (e) the rate of storage charges; (f) a description of the agricultural products received, showing the quantity thereof, or, in case of agricultural products cus-

tomarily put up in bales or packages, a description of such bales or packages by marks, numbers, or other means of identification and the weight of such bales or packages; (g) the grade or other class of the agricultural products received and the standard or description in accordance with which such classification has been made: *Provided*, That such grade or other class shall be stated according to the official standard of the United States applicable to such agricultural products as the same may be fixed and promulgated under authority of law: *Provided further*, That until such official standards of the United States for any agricultural product or products have been fixed and promulgated, the grade or other class thereof may be stated in accordance with any recognized standard or in accordance with such rules and regulations not inconsistent herewith as may be prescribed by the Secretary of Agriculture; (h) a statement that the receipt is issued subject to the United States warehouse Act and the rules and regulations prescribed thereunder; (i) if the receipt be issued for agricultural products of which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership; (j) a statement of the amount of advances made and of liabilities incurred for which the warehouseman claims a lien: *Provided*, That if the precise amount of such advances made or of such liabilities incurred be at the time of the issue of the receipt unknown to the warehouseman or his agent who issues it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof shall be sufficient; (k) such other terms and conditions within the limitations of this Act as may be required by the Secretary of Agriculture; and (l) the signature of the warehouseman, which may be made by his authorized agent: *Provided*, That unless otherwise required by the law of the State in which the warehouse is located, when requested by a depositor of other than fungible agricultural products, a receipt omitting compliance with subdivision (g) of this section may be issued: *Provided, however*, The Secretary of Agriculture may in his discretion require that such receipt have plainly and conspicuously embodied in its written or printed terms a provision that such receipt is not negotiable.

SEC. 19. That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards for agricultural products by which their quality or value may be judged or determined: *Provided*, That the standards for any agricultural products which have been, or which in future may be, established by or under authority of any other Act of Congress shall be, and are hereby, adopted for the purposes of this Act as the official standards of the United States for the agricultural products to which they relate.

SEC. 20. That while an original receipt issued under this Act is outstanding and uncanceled by the warehouseman issuing the same no other or further receipt shall be issued for the agricultural product covered thereby or for any part thereof, except that in the case of a lost or destroyed receipt a new receipt, upon the same terms and subject to the same conditions and bearing on its face the number and date of the receipt in lieu of which it is issued, may be issued upon compliance with the statutes of the United States applicable thereto in places under the exclusive jurisdiction of the United States or upon compliance with the laws of any State applicable thereto in any place not under the exclusive jurisdiction of the United States: *Provided*, That if there be in such case no statute of the United States or law of a State applicable thereto such new receipts may be issued upon the giving of satisfactory security in compliance with the rules and regulations made pursuant to this Act.

SEC. 21. That a warehouseman conducting a warehouse licensed under this Act, in the absence of some lawful excuse, shall, without unnecessary delay, deliver the agricultural products stored therein upon a demand made either by the holder of a receipt for such agricultural products or by the depositor thereof if such demand be accompanied with (a) an offer to satisfy the warehouseman's lien; (b) an offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipts; and (c) a readiness and willingness to sign, when the products are delivered, an acknowledgement that they have been delivered if such signature is requested by the warehouseman.

SEC. 22. That a warehouseman conducting a warehouse licensed under this Act shall plainly cancel upon the face thereof each receipt returned to him upon the delivery by him of the agricultural products for which the receipt was issued.

SEC. 23. That every warehouseman conducting a warehouse licensed under this Act shall keep in a place of safety complete and correct records of all agri-

cultural products stored therein and withdrawn therefrom, of all warehouse receipts issued by him, and of the receipts returned to and canceled by him, shall make reports to the Secretary of Agriculture concerning such warehouse and the condition, contents, operation, and business thereof in such form and at such times as he may require, and shall conduct said warehouse in all other respects in compliance with this Act and the rules and regulations made hereunder.

SEC. 24. That the Secretary of Agriculture is authorized to cause examinations to be made of any agricultural product stored in any warehouse licensed under this Act. Whenever, after opportunity for hearing is given to the warehouseman conducting such warehouse, it is determined that he is not performing fully the duties imposed on him by this Act and the rules and regulations made hereunder, the Secretary may publish his findings.

SEC. 25. That the Secretary of Agriculture, or his designated representative, may, after opportunity for hearing has been afforded to the licensee concerned, suspend or revoke any license to any warehouseman conducting a warehouse under this Act, for any violation of or failure to comply with any provision of this Act or of the rules and regulations made hereunder, or upon the ground that unreasonable or exorbitant charges have been made for services rendered. Pending investigation, the Secretary of Agriculture, or his designated representative, whenever he deems necessary, may suspend a license temporarily without hearing.

SEC. 26. That the Secretary of Agriculture from time to time may publish the results of any investigations made under Section 3 of this Act; and he shall publish the names and locations of warehouses licensed and bonded and the names and addresses of persons licensed under this Act and lists of all licenses terminated under this Act and the causes therefor.

SEC. 27. That the Secretary of Agriculture is authorized through officials, employees, or agents of the Department of Agriculture designated by him to examine all books, records, papers, and accounts of warehouses licensed under this Act and of the warehousemen conducting such warehouses relating thereto.

SEC. 28. That the Secretary of Agriculture shall from time to time make such rules and regulations as he may deem necessary for the efficient execution of the provisions of this Act.

SEC. 29. That in the discretion of the Secretary of Agriculture he is authorized to cooperate with State officials charged with the enforcement of State laws relating to warehouses, warehousemen, weighers, graders, inspectors, samplers, or classifiers; but the power, jurisdiction, and authority conferred upon the Secretary of Agriculture under this Act shall be exclusive with respect to all persons securing a license hereunder so long as said license remains in effect. This Act shall not be construed so as to limit the operation of any statute of the United States relating to warehouses or to warehousemen, weighers, graders, inspectors, samplers, or classifiers now in force in the District of Columbia or in any Territory or other place under the exclusive jurisdiction of the United States.

SEC. 30. That every person who shall forge, alter, counterfeit, simulate, or falsely represent, or shall without proper authority use, any license issued by the Secretary of Agriculture, or his designated representative, under this Act, or who shall violate or fail to comply with any provision of Section 8 of this Act, or who shall issue or utter a false or fraudulent receipt or certificate, or change in any manner an original receipt or certificate subsequently to issuance by a licensee, or any person who, without lawful authority, shall convert to his own use, or use for purposes of securing a loan, or remove from a licensed warehouse contrary to this Act or the regulations promulgated thereunder, any agricultural products stored or to be stored in such warehouse, and for which licensed receipts have been or are to be issued, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$10,000, or double the value of the products involved if such double value exceeds \$10,000, or imprisoned not more than ten years, or both, in the discretion of the court, and the owner of the agricultural products so converted, used, or removed may, in the discretion of the Secretary of Agriculture, be reimbursed for the value thereof out of any fine collected hereunder, by check drawn on the Treasury at the direction of the Secretary of Agriculture, for the value of such products to the extent that such owner has not otherwise been reimbursed. That any person who shall draw with intent to deceive, a false sample of, or who shall willfully mutilate or falsely represent a sample drawn under this Act, or who shall classify, grade, or weigh fraudulently, any agricultural products stored or to be stored under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction

thereof fined not more than \$500, or imprisoned for not more than six months, or both, in the discretion of the court.

SEC. 31. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, available until expended, for the expenses of carrying into effect the provisions of this Act, including the payment of such rent and the employment of such persons and means as the Secretary of Agriculture may deem necessary in the city of Washington and elsewhere, and he is authorized, in his discretion, to employ qualified persons not regularly in the service of the United States for temporary assistance in carrying out the purposes of this Act, and out of the moneys appropriated by this Act to pay the salaries and expenses thereof.

SEC. 32. That if any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 33. That the right to amend, alter, or repeal this Act is hereby expressly reserved.



